

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

MYRTIS PAULO HART,

Plaintiff,

vs.

No. CV 21-01079 KG/KRS

CURRY COUNTY ADULT DETENTION CENTER,  
CURRY COUNTY MANAGER, DEPARTMENT OF  
PUBLIC SAFETY, MDC, ALBUQUERQUE COUNTY  
MANAGER, DEPARTMENT OF PUBLIC SAFETY,  
NSA, HOMELAND SECURITY, FCC, FBI, WARDEN  
MARK GALLEGOS,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court *sua sponte* under Fed. R. Civ. P. 41(b) on the “Claim for Damage, Injury, or Death” (Doc. 1) and Prisoner’s Civil Rights Complaint (Doc. 5) filed by Plaintiff Myrtis Paulo Hart (“Complaint”). The Court will dismiss the Complaint without prejudice for failure to comply with a Court order, statutes, and rules, and failure to prosecute this proceeding.

This is one of the many cases Plaintiff Myrtis Paulo Hart has filed in this Court.<sup>1</sup> Plaintiff Hart filed his Complaint on November 5, 2021. (Doc. 1). At the time of filing of the Complaint,

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<sup>1</sup> *Hart v. State of New Mexico*, CV 19-00089 MV/GJF; *Hart v. Gallegos*, CV 19-00128 JCH/JFR; *Hart v. Gallegos*, CV 19-00175 RB/GBW; *Hart v. Gallegos*, CV 19-00766 JB/KBM; *Hart v. Gallegos*, CV 19-00834 MV/JHR; *Hart v. Gallegos*, CV 19-00932 MV/SCY; *Hart v. Gallegos*, CV 20-00595 WJ/SMV; *Hart v. Borne*, CV 20-00965 KG/JFR; *Hart v. McDonald’s*, CV 20-01044 WJ/JFR; *Hart v. Central New Mexico Correctional Facility*, CV 20-01046 KG/GB; *Hart v. Clovis Police Department*, CV 20-01064 KG/SMV; *Hart v. Federal Bureau of Investigation*, CV 20-01141 MV/JFR; *Hart v. United States*, CV 21-0008 KG/CG; *Hart v. Lytle*, CV 21-00017 MV/GBW; *Hart v. Saavedra*, CV 21-00106 KWR/GBW; *Hart v. Guadale*, CV 21-00131 JB/SCY; *Hart v. Northwestern New Mexico Correctional Facility*, CV 21-00136 KG/KK; *Hart v. Central New Mexico Correctional Facility*, CV 21-00137 KWR/JFR; *Hart v. Northwestern New*

Hart was incarcerated at the Curry County Adult Detention Center and named the Curry County Adult Detention Center as Defendant in this case. (Doc. 1). Hart's Complaint appears to be on a federal Tort Claims Act notice. In addition to Curry County Adult Detention Center, Hart names as Defendants the Curry County Manager, Department of Public Safety, MDC, Albuquerque County Manager, Department of Public Safety, NSA, Homeland Security, FCC, and FBI. (Doc. 1 at 1). For his claim, Hart states:

"In an effort proven to be associated with Inmates and Corrections Officers an effort to distract, kill, harm as well as distort facts of cases as well as day to day activities. This is perpetuated by inmates as well as Corrections Officers and Citizens of Clovis, Albuquerque, etc. This event has caused Civil unrest and Abuse to myself as well as to my children and other children. Multiple attempts to kill me as well. Also tried to distort facts of previous encounters of suspects on friends of families murder(s) cases."

(Doc. 1 at 1). Hart sought damages in the amount of \$30 Million for personal injury. (Doc. 1 at 1).

The Court determined that Plaintiff's Complaint was not in proper form. Plaintiff also did not pay the filing fee or submit an application to proceed *in forma pauperis* at the time he filed the Complaint. The Court entered an Order to Cure Deficiency on November 8, 2021, directing Plaintiff Hart to put his Complaint in proper form and either pay the filing fee or submit an

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*Mexico Correctional Facility*, CV 21-00186 JB/SMV; *Hart v. Curry County Adult Detention Center*, CV 21-01011 RB/KBM; *Hart v. Talin Market World Food Fare*, CV 21-01012 KG/SCY; *Hart v. Dank Smoke Shop and Grocery*, CV 21-01013 KG/GBW; *Hart v. Discount Liquors*, CV 21-01014 JCH/SCY; *Hart v. State of New Mexico*, CV 21-01048 JCH/KRS; *Hart v. Adult Probation and Parole*, CV 21-01049 JB/KBM; *Hart v. Martinez*, CV 21-01073 JB/GB; *Hart v. Summit Food Service*, CV 21-01074 MIS/LF; *Hart v. Sellers*, CV 21-01075 MV/KK; *Hart v. Curry County Adult Detention Center*, CV 21-01078 MV/SMV; *Hart v. Curry County Adult Detention Center*, CV 21-01079 KG/KRS; *Hart v. Seven-Eleven*, CV 21-01105 KG/GJF; *Hart v. WalMart*, CV 21-01107 MV/KRS; *Hart v. Sahara Hotel*, CV 21-01108 JB/KRS; *Hart v. Federal Bureau of Investigation*, CV 21-01124 KG/SCY; *Hart v. Foot Locker Corporation*, CV 21-01135 MIS/GBW; *Hart v. Lil Caesars*, CV 21-01136 KWR/KBM; *Hart v. Transition for Living*, CV 21-01137 MV/CG; *Hart v. Fairfield (Hotel)*, CV 21-01161 WJ/SCY.

application to proceed under 28 U.S.C. § 1915 within thirty days of entry of the Order. (Doc. 3). With the Order to Cure, the Court also provided Plaintiff with a form prisoner civil rights complaint and a form Application to Proceed in District Court Without Prepayment of Fees or Costs. (Doc. 3 at 2). The Order advised Plaintiff that, if he failed to cure the deficiencies within the 30-day time period, the Court could dismiss this proceeding without further notice. (Doc. 3 at 1).

Plaintiff Hart did not comply with the Court's November 8, 2021, Order. Instead, on December 3, 2021, Plaintiff submitted a Prisoner's Civil Rights Complaint, adding an additional Defendant, Warden Mark Gallegos (Doc. 5 at 2) and increasing his damages demand to \$140 Million (Doc. 5 at 5). He also submitted an insufficient request to proceed *in forma pauperis* on December 3, 2021, that did not include the inmate account statement required by 28 U.S.C. § 1915(a)(2). (Doc. 6). The return address for his December 3, 2021, filings indicated he was still incarcerated at the Curry County Adult Detention Center. (Doc. 5). However, mail sent to Plaintiff at the Curry County Adult Detention Center address was returned as undeliverable. (Doc. 7).

The Court, on its own initiative, searched the Curry County Adult Detention Center and New Mexico Department of Corrections' records, confirmed that Plaintiff had been released from Curry County Adult Detention Center on November 22, 2021, confirmed Plaintiff was incarcerated at Central New Mexico Correctional Facility, and changed Plaintiff's address of record to Central New Mexico Correctional Facility. When mail in other cases filed by Plaintiff was returned as undeliverable, a subsequent search of the New Mexico Department of Corrections records disclosed that Plaintiff has been released from the Central New Mexico Correctional Facility and



is no longer in custody of the Department of Corrections.<sup>2</sup> The Court has received no filings, change of address, or other communications from Plaintiff Hart since December 3, 2021.

Pro se litigants are required to follow the federal rules of procedure and simple, nonburdensome local rules. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10<sup>th</sup> Cir. 1980). The local rules require litigants, including prisoners, to keep the Court apprised of their proper mailing address and to maintain contact with the Court. D.N.M. LR-Civ. 83.6. Plaintiff Hart has failed to comply with D.N.M. LR-Civ. 83.6

Plaintiff has never submitted a complaint in proper form as ordered by the Court on November 8, 2021 (Doc. 3). Plaintiff has also failed to either pay the filing fee or submit a complete application to proceed under § 1915 in proper form. The Court may dismiss a proceeding under Fed. R. Civ. P. 41(b) for failure to comply with statutes or rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10<sup>th</sup> Cir. 2003). Therefore, the Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with the Court's Order of November 8, 2021, failure to comply with statutes and rules, and failure to prosecute this proceeding.

**IT IS ORDERED:**


(1) the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (Doc. 6) is **DENIED** for failure to comply with the requirements of 28 U.S.C. § 1915(a)(2); and

(2) the Claim for Damage, Injury, or Death (Doc. 1) and Prisoner's Civil Rights Complaint (Doc. 5) filed by Plaintiff Myrtis Paulo Hart are **DISMISSED** without prejudice under Fed. R.

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<sup>2</sup> See, e.g., CV 21-01049 DHU/KBM, CV 21-01073 JB/GBW, CV 21-1075 MV/KK, CV 21-01077 KWR/CG, CV 21-01011 RB/KBM, CV 21-01137 MV/CG, CV 21-01161 DHU/SCY.

Civ. P. 41(b) for failure to comply with the Court's November 8, 2021, Order, failure to comply with statutes and rules, and failure to prosecute.

  
UNITED STATES DISTRICT JUDGE